REMARKS/ARGUMENTS

The Office is requiring restriction to one of the following groups:

Group I: Claims 39-57 and 61-74, drawn to a multilayer article, and

Group II: Claims 58-60, 75 and 76, drawn to a method of making a multilayer article.

Applicants elect, with traverse, Group I, Claims 39-57 and 61-74 for examination.

Additionally, the following species elections have been identified:

Species I: fluoropolymer

Species II: polysiloxane

Applicants elect, with traverse and for examination purposes only, the following species (readable on at least claims 39-56, 58-70, 72, 75 and 76):

Species II: polysiloxane

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)).

The Office has alleged that Groups I-II lack unity of invention because the groups do not share the same or corresponding technical feature and that Groups I-II lack unity of invention because they do not share a special technical feature in view of WO 95/30793.

However, Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

> "The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any)."

Applicants respectfully submit that the Office has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity and therefore has not met the burden necessary to support the assertion.

In addition, The MPEP §806.03 states:

> "Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition."

Applicants respectfully submit that the Office has not considered the relationship of the inventions of Groups I-II with respect to MPEP §806.03 nor paragraph (b) of Annex B of the Administrative Instructions Under the PCT. Therefore the burden necessary according to MPEP § 1893.03(d) to sustain the conclusion that the groups lack of unity of invention has not been met.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

In regard to the election of species requirements, Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP § 808.01(a). The Office has not provided adequate reasons or examples to support a conclusion that the species, as claimed, are indeed patentably distinct. Accordingly, Applicants respectfully submit that the election requirement is improper, and Applicants' election of species is for examination purposes only.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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